

SUPERIOR COURT
BARNSTABLE, SS

Filed

JAN 25 2019

COMMONWEALTH OF MASSACHUSETTS

Scott W. Williams Clerk

BARNSTABLE, ss

BARNSTABLE SUPERIOR COURT
DOCKET NO: 1872CR00084

COMMONWEALTH

v.

THOMAS LATANOWICH

MEMORANDUM SUPPORTING THE DEFENDANT'S
MOTIONS FOR RULE 17 SUMMONSES TO THE
CAPE COD AREA POLICE DEPARTMENTS

ARGUMENT

A defendant may obtain police records by means of a Rule 17 motion. Commonwealth v. Wanis, 426 Mass. 639, 642 (1998); Commonwealth v. Rodriguez, 426 Mass. 647, 648 (1998). The motion must be supported by an affidavit demonstrating "a specific, good faith reason for believing that the information is relevant to a material issue in the criminal proceedings and could be of real benefit to the defense." Wanis, 426 Mass. at 644-45 (1998). Police records including personnel files about particular officers should be disclosed if a defendant makes the requisite showing. Id.

The affidavit filed in support of the Rule 17 motion must "make a factual showing that the documents sought are relevant and have evidentiary value to the defense." Commonwealth v. Lampron, 441 Mass. 265, 269 (2004). Documents are relevant if they would have "a rational tendency to prove or disprove an issue in the case." Id. at 269-70. The affidavit may be

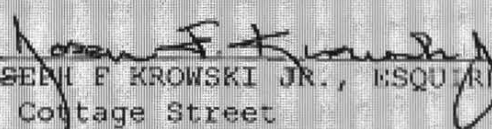
submitted by defense counsel. It can include reliable hearsay information received from his or her sources, which may include the defendant. Id. at 271.

In this case, Latanowich is charged with murder stemming from the April 12, 2018, shooting death of Sgt. Sean Gannon. Counsel has filed several Rule 17 Motions seeking documents from the fifteen (15) area Cape Cod Police Departments as well two (2) additional motions directed to the Yarmouth Police Department for Sgt. Gannon's personnel file and for records concerning his canine, Nero. Counsel's affidavit coupled with the facts and circumstances of the case demonstrate the materiality, relevance, and potential exculpatory nature of the documents sought.

CONCLUSION

For the forgoing reasons, the Defendant's Motions for Rule 17 Summonses must be allowed.

By his Attorney,


JOSEPH F. KROWSKI JR., ESQUIRE
40 Cottage Street
Brockton, MA 02301
(508) 584-2555
BBO: 640902

Dated: January 9, 2019

cc:\jfk\den\jfk\cases\latanowich, rita\case\mss. rule17.pdf\entire\entire\entire